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FISCAL IMPACT STATEMENT

LS 6615

BILL NUMBER: SB 213

NOTE PREPARED: Mar 25, 2005

BILL AMENDED: Mar 24, 2005

SUBJECT: Sales Tax on Out-of-State Sales.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR: Rep. Friend

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill brings Indiana law into conformance with the requirements of the Streamlined Sales and Use Tax Agreement concerning: (1) the definition of tobacco; and (2) monetary allowances given to sellers and certified service providers for collecting sales and use taxes.

The bill allows a partial sales tax exemption for a cargo trailer or a recreational vehicle and a full exemption for an aircraft purchased in Indiana, if it is to be titled or registered for use in another state or country. The bill also provides that for cargo trailers and recreational vehicles that will be registered in a state or country that imposes a sales, use, or similar tax on the transaction, the exemption is equal to the sales tax that would be imposed in the other state or country if the transaction had occurred in that state or country. The bill provides that for cargo trailers and recreational vehicles that will be registered in a state or country that does not impose a sales, use or similar tax on the transaction, the exemption is equal to the sales tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana.

The bill also provides that income received by a nonresident limited partner from an investment limited partnership is not adjusted gross income derived from sources within Indiana regardless of whether the investment limited partnership's commercial domicile is in Indiana. This bill also establishes a \$1,000 adjusted gross income tax deduction for the purchaser of a single family or two family residence constructed with steel framing manufactured in the United States.

Effective Date: (Amended) July 1, 2005; January 1, 2006.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some

administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the changes proposed by the bill. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Streamlined Sales Tax Conformance:* These conformance provisions of the bill are expected to have little or no fiscal impact on Sales Tax revenues.

This bill adds "tobacco" to the list of items in IC 6-2.5-5-20, that are *NOT* considered "food or food ingredients for human consumption." This provision of the bill codifies an existing interpretation of IC 6-2.5-5-20 that the DOR has already set forth in *Sales Tax Information Bulletin #9, January 2004*. This provision is not expected to have a fiscal impact on Sales Tax revenue.

The bill also adds conforming language to IC 6-2.5-11-10 concerning sellers who contract with a certified service provider (CSP) to collect and remit Sales Taxes on behalf of the seller. The added language provides that these sellers and CSP's are to be allowed a collection allowance equal to that provided for in the Streamlined Sales Tax Agreement (SSTA). As of March 21, 2005, no rate for the allowance had been agreed upon by the SSTA member states. Therefore, until a rate is established, the fiscal impact on Sales Tax revenue is indeterminable. Currently, all sellers who remits in a timely manner, as provided in IC 6-2.5-6-10, are entitled to a collection allowance of 0.83% of their total Sales and Use Tax liability for that reporting period.

(Revised) *Sales Tax Exemptions:* This bill provides a partial Sales Tax exemption for recreational vehicles (RV's) and cargo trailers (trailers), and a full exemption for aircraft, if the RV, trailer, or aircraft is purchased in Indiana, and is to be titled or registered in another state. This exemption will result in a decrease in state Sales Tax revenue. The amount of Sales Tax revenue that would be lost is indeterminable.

The bill also provides that in order for the purchaser to claim either of these exemptions, the purchaser must transport the RV, trailer, or aircraft out of Indiana within 30 days, and title or register the RV, trailer, or aircraft for use in another state. The bill also provides that the purchaser has the burden of providing the retail merchant with an affidavit stating the intent to transport to, and title the vehicle in, another state.

The bill provides that any aircraft purchases meeting the above requirements are fully exempt from Sales Tax.

The Sales Tax exemption for RV's and trailers is equal to the sales tax that would be imposed in the registration state if the transaction had occurred in that state. The example below illustrates the computation.

"Y", a resident of Virginia (VA), purchases a RV in Indiana (IN), immediately transports the vehicle back to VA, and titles the vehicle in VA. The purchase price of the vehicle was \$100,000. IN's Sales Tax rate is 6%, and VA's sales tax rate is 4%. At the time of purchase, "Y" would pay 2%, or \$2,000, in Sales Tax to IN. The exemption allowed by this bill would be equal to VA's rate of 4%, or \$4,000.

If the registration state imposes no sales tax, the bill provides that the purchaser is not liable for any sales tax to Indiana. The exemption under the bill in this case is 6%.

If the registration state imposes a higher sales tax than Indiana, then the purchaser would not be liable for any Sales Tax to Indiana. The bill provides that the exemption is equal to the sales tax rate of the registration state, but also that the exemption shall not exceed Indiana's Sales Tax rate. For example, if the registration state had a rate of 7%, then the exemption would be 6% based on Indiana's current Sales Tax rate. Furthermore, if the

registration state had a rate of 25%, the exemption would still be 6%. Not taking into account any local option Sales Taxes, there are currently 20 states with a Sales Tax rate of 6% or higher.

The bill defines a "cargo trailer" as a vehicle:

- (1) without motive power;
- (2) designed for carrying property; and
- (3) designed for being drawn by a motor vehicle.

The bill also provides that the term "cargo trailer" includes pole trailers, boat trailers, utility trailers, semitrailers (as defined in IC 9-13-2-164(a)), and two wheeled homemade trailers.

Sales tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Background: P.L. 81-2004 (HEA 1365-2004) effective July 1, 2004 repealed a Sales Tax exemption for motor vehicles, watercraft, trailers, and aircraft purchased in Indiana and registered out-of-state. Since the exemption has yet to be repealed for an entire year, and these sales are currently taxable, figures are still not available on the specific increase in Sales Tax revenue due to the repeal of the exemption.

Steel Frame Home Deduction: The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of individual taxpayers who purchase certain steel frame homes from a builder. The revenue loss due to this bill could potentially total about \$78,000 in FY 2007. This impact could increase by 5% annually thereafter.

Background: The bill provides for a deduction from Adjusted Gross Income for an individual taxpayer who purchases from a builder a single-family residence constructed wholly or partially of steel framing manufactured in Indiana. Under the bill, the deduction amount is the lesser of : (1) the part of the purchase price of the home attributable to labor and materials for the steel framing; or (2) \$1,000.

The fiscal impact estimate is based on home construction data from the Steel Framing Alliance and the National Association of Home Builders that steel frame homes represent about 5.5% of new home construction nationally. Based on recent one- and two-family housing starts for Indiana, it is estimated that about 2,300 homes containing steel framing will be constructed in tax year 2006. Growth in steel frame housing starts is assumed to be about 5% annually thereafter based on the long-run trend in housing starts in recent years (average annual growth since 1991 of about 5.2%). The fiscal impact estimate of the deduction on these homes assumes that the maximum deduction will be claimed. Eighty six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund. Since the deduction is effective beginning in tax year 2004, the fiscal impact would begin in FY 2005.

(Revised) Nonresident Limited Partner: This bill provides that a nonresident limited partner's income from that partner's investment in an investment limited partnership (ILP) domiciled in Indiana, in *NOT* taxable income. This provision will decrease Indiana Individual Adjusted Gross Income (AGI) Tax Revenue beginning in FY 2006. The OFMA Corporate Income Tax database contains no information on the number of nonresident limited partners currently invested in these partnerships, so an estimate of the decrease in revenue resulting from the bill is indeterminable.

The bill defines investment limited partnership as:

(a) An entity that is treated as a partnership for federal income tax purposes that meets the following requirements:

(1) At least ninety percent (90%) of the value of the partnership's total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry out the activities of a limited investment partnership.

(2) At least ninety percent (90%) of the partnership's gross income consists of dividends and gains from the sale or exchange of qualifying investment securities.

(3) Except as provided in subsection (b), the partnership is not a dealer in qualifying investment securities.

(b) An investment limited partnership may be a dealer in commodities.

Currently, these nonresident limited partners are taxed at a rate of 3.4% on the income that is derived from their share of ILP's income (loss) attributed to sources within Indiana as determined by an apportionment formula. 86% of Individual AGI Tax revenue is distributed to the State General Fund and 14% goes to the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Steel Frame Home Deduction:* Because the proposed deduction would serve to decrease Taxable Income, counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) may, as a result, experience an indeterminable decrease in revenue from these taxes.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with a local option income tax.

Information Sources: *Characteristics of New Single-Family Homes (1987-2001)*, National Association of Home Builders, <http://www.nahb.org>.

New Residential Permits by County, Stats Indiana, <http://www.stats.indiana.edu>.

Use of Steel by Application, The Steel Framing Alliance, <http://www.steel framingalliance.com>,
Sales Tax Information Bulletin #9, January 2004.

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